

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-34 are pending in this application. Claims 1-4, 6-8, 13-18, 20-22, 25-27, 29-30, 33-34 are amended by the present amendment. No new matter has been added by the present amendment.

In the Office Action, claims 8-21 are objected to under 37 CR 1.75 as allegedly being substantial duplicates of claims 1-7 and refers to MPEP § 706.03(k). The Examiner requests removing system parallel claims too.

Claims 1-34 are rejected under 35 U.S.C. § 103(a) (hereinafter, "Section 103(a)") as being unpatentable over Friedland et al. (U.S. Pat. No. 6,449,601, hereinafter, "Friedland") in view of Kivimaki et al. (WO 00/22906, hereinafter, "Kivimaki") and Witek et al. (U.S. Pat. No. 6,253,188, hereinafter, "Witek")

Applicant respectfully traverses all rejections and requests reconsideration.

A. CLAIM OBJECTIONS

Applicant respectfully submits that claims 8-21 are not substantial duplicates of claims 1-7 but differ in scope from each other. Claims 1-7 claim a method for authentication of buyers and sellers **and** for the transmission of trading instructions in a trading and auction system. Claims 1-7 are a combination of claim sets 8-14 and 15-21. In particular, claims 8-14 claim a method for authentication of buyers and sellers; and are directed toward different limitations than those provided in independent claim 1. Claims flowing from claim 8 do not have the limitations of at least "assigning a unique identification number to each product or service for sale or auction at said trading and auction system" and neither do they account for

the other limitations found in claim 1 of the transmission of trading instructions. Claims 15-21 are directed toward a method for the transmission of trading instructions in a trading and auction system; and are directed toward different limitations than those provided in independent claim 1. Claims flowing from claim 15 do not require the "authentication" limitations found in independent claim 1. As such, each of the claimed sets differ in scope from each other.

The same rationale applies to the system claims. Claims 22-26 are a combination of the subject matter of claims 27-29 and claims 30-34. Each set differs in scope from one another and are not substantial duplicates.

In addition, according to MPEP 706.03(k), "it is proper after allowing one claim to object to the other claim under 37 CFR 1.75 as being a substantial duplicate of the allowed claim.". However, Examiner has not shown any indication of allowing any claim in making such an objection. Nevertheless, Applicant respectfully submits that the claim sets do not cover the same thing, "Indeed, a mere difference in scope between claims has been held to be enough", MPEP 706.03(k). It is clear that each set of claims differ in scope from one another.

Accordingly, it is respectfully requested that the objection to claims 8-21 and to the system claims be withdrawn.

B. REJECTION UNDER SECTION 103(A), FRIEDLAND, KIVIMAKI AND WITEK

The independent claims 1, 8, 15, 22, 27 and 30 are rejected under Section 103(a) by Friedland in view of Kivimaki and Witek. These independent claims have been amended by the present amendment. Applicant respectfully traverses Examiner's rejection as explained below.

As explained in M.P.E.P. Section 706.02(j):

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The three above-mentioned criteria must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a prima facie case of obviousness using Freidland, Kivimaki and Witek for at least the reasons stated below.

Amended Claims 1, 8, 15, 22, 27 and 30

The discussion below with regard to independent method claims 1, 8 and 15 can be applied to the system claims of 22, 27 and 30. These claims have been amended to recite that the registration of the buyer or seller requires providing “a unique identifier of a SMS messaging-capable wireless device”; in addition the sending of messages to a buyer concerning offers or bids and the receiving of messages from a buyer concerning the buyer’s trading instructions are accomplished by “short message protocol messages”.

Independent claims 1 and 15 have been amended to recite that the in sending short message protocol messages to a buyer’s SMS wireless device, “the unique identification number of the product or service” (hereinafter “UIN”) is “included in *an only ‘Sender’ field* of each short message protocol message to the buyer”. In addition, in receiving short message protocol messages from the buyer concerning buyer’s trading instructions, the product or service is determined by “extracting and recognizing the UIN of the product or service from *an only ‘Recipient’ field* of received short message protocol messages from the buyer”,

“identifying the buyer by extracting and recognizing the unique identifier of the SMS wireless device from *the only ‘Sender’ field* of each message from the buyer”.

Friedland does not recite the required limitations of amended claims 1 and 15. In particular, Friedland does not require providing the “unique identifier of a SMS messaging-capable wireless device belonging to the prospective buyer or seller”, rather Friedland makes optional the obtaining of other information including a telephone number, but nowhere makes it a requirement to obtain a unique identifier of a SMS messaging device in order to register.

Friedland also does not provide for “sending short message protocol messages” to the “buyer’s SMS wireless device” with the UIN of the product in “an only ‘Sender’ field of each short message protocol message to the buyer”. Friedland as cited, only describes using forms on monitor screens as shown in Figs. 5-9 in which users enter data, and messages in which a number of fields are displayed in sent messages to remote bidders. However, there is no teaching or suggestion that an SMS message is sent wherein the UIN is in the “only ‘Sender’ field” of the SMS message and wherein the received message is a SMS message wherein the UIN is in the “only ‘Recipient’ field” of the SMS message received from the buyer and further that the buyer is identified by extracting and recognizing the “unique identifier of the SMS wireless device from the only ‘Sender’ field” of the SMS message from the buyer. These particular limitations of the UIN in the only ‘Sender’ and only ‘Recipient’ field of the SMS message are nowhere found in Friedland. Neither is there any teaching that the buyer’s SMS wireless device unique identifier is in the “only ‘Sender’ field” of the message from the buyer.

Neither does Kivimaki provide for the deficiencies found in Friedland. Although Kivimaki describes using SMS of a mobile communications system between the user and the auction system, Kivimaki again does not provide for the claimed elements of “the unique identification number of the product or service” (hereinafter “UIN”) is “included in *an only* ‘Sender’ field of each short message protocol message to the buyer”; “extracting and recognizing the UIN of the product or service from *an only* ‘Recipient’ field of received short message protocol messages from the buyer”, “identifying the buyer by extracting and recognizing the unique identifier of the SMS wireless device from *the only* ‘Sender’ field of each message form the buyer”. Kivimaki rather only describes a short message sent with a number of fields separated by separating characters (pg. 10) and does not teach the specific elements recited in claims 1 and 15, that the UIN is included in the only ‘Sender’ field of the message to the buyer and that the UIN is in the only ‘Recipient’ field in the message from the buyer; and neither does Kivimaki teach that the SMS wireless device unique identifier of the buyer would be in the only ‘Sender’ field in the same message from the buyer.

Witek also provides no further teaching of all the required elements of amended claims 1 and 15 as recited and discussed above. Accordingly, Applicant respectfully requests withdrawal of the rejection against claims 1 and 15 under Section 103(a).

With regard to amended claim 8, it is submitted that the element of “communicating said password to said prospective buyer or seller” has been amended to comprise “by concatenating an access identification number with a numeric address pertaining to and recognized by the system for registration purposes, placing said concatenated number in an only ‘Sender’ field of a SMS message, and sending the password in the SMS message to said buyer or seller...”. Support for the amendment can be found in Applicant’s specification in

paragraphs [0107]-[0109]. As such, Friedland, in view of Kivimaki and Witek, do not anywhere disclose such required elements. Amended claim 8 is believed to be allowable over the cited references.

The system claims 22, 27 and 30 as mentioned above, include similarly amended limitations of claims 1, 8 and 15 and are therefore argued to be allowable for the same reasons as amended claims 1, 8 and 15.

As none of the above-discussed required elements is disclosed in Friedland in combination with Kivimaki and Witek, there is no showing of a prima facie case of obviousness for failure to teach all elements of the claim. The lack of any one of the required three elements for a rejection under Section 103(a) would make amended claims 1, 8, 15, 22, 27 and 30 allowable over the teachings of the cited references.

Therefore, Friedland in light of Kivimaki and Witek fail to teach or suggest ALL claim limitations as required to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests withdrawal of the rejection of amended claims 1, 8, 15, 22, 27 and 30 under Section 103(a).

Dependent Claims 2-7, 9-14, 16-21, 23-26, 28-29 and 31-34

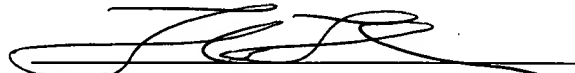
The dependent claims include all limitations of their respective base claims 1, 8, 15, 22, 27 and 30. Accordingly, Applicant submits that claims 2-7, 9-14, 16-21, 23-26, 28-29 and 31-34 are allowable for at least the same reasons as base claims 1, 8, 15, 22, 27 and 30 and for the additional limitations they each recite. Applicant respectfully requests withdrawal of the rejection of claims 2-7, 9-14, 16-21, 23-26, 28-29 and 31-34 under Section 103(a).

II. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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